

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3-5-12
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DANIEL PRESTON,

Plaintiff,

-against-

ABSECON MILLS, INC.,

Defendant.
-----X

12 CV 1393 (ALC)(JLC)

ORDER TO SHOW CAUSE
FOR A PRELIMINARY
INJUNCTION AND
TEMPORARY RESTRAINING
ORDER

Upon the summons and complaint herein, the annexed declarations of Daniel Preston, dated March 2, 2012, and Fran M. Jacobs, dated March 5, 2012, and the exhibits annexed thereto, and the accompanying memorandum of law, and upon the proceedings herein, and sufficient cause therefor appearing, it is hereby

ORDERED that defendant show cause, in the United States District Court, Room 14A of the United States Courthouse, 500 Pearl Street, New York, New York 10007 on the 9th day of March, 2012 at 10:00 A.M. of that day or as soon thereafter as counsel can be heard, why an order should not be entered pursuant to Rule 65 of the Federal Rules of Civil Procedure:

(a) enjoining and restraining defendant Absecon Mills, Inc., its servants, agents, employees, attorneys, and representatives, and all persons in active concert or participation with it, during the pendency of this action and until final judgment herein from:

(1) using the trade secrets of plaintiff that are the subject of the License Agreement, dated August 19, 2010 (the "License Agreement"), between plaintiff, as Licensor, and defendant, as Licensee, relating to the manufacture of fabrics (the "Technology") (A) containing (i) more than two weft insertions, (ii) co-mingled thermo-setting, melt bond, or friction inducing fibers, or (iii) structural Z fibers or (B) designed by or with the assistance of plaintiff;

(2) disclosing the Technology to anyone; and

(3) interfering with plaintiff's use of the Technology; and

(b) directing defendant to allow plaintiff to purchase from defendant, for a purchase price equal to defendant's cost less tax depreciation, the Liba machine acquired by defendant to manufacture fabrics using the Technology as provided for in Section 12 of the License Agreement; and

(c) granting such other and further relief as to the Court seems just and proper.

AL It further appearing to the Court from the complaint, declaration, and the Memorandum of Law above mentioned that a Temporary Restraining Order preliminary to the determination of this application should issue because of the threatened conduct alleged in such Complaint and declaration; and that, absent a Temporary Restraining Order, such conduct will cause immediate and irreparable injury, loss, or damage to plaintiff, and plaintiff having given notice to defendants of plaintiff's application for a Temporary Restraining Order, it is hereby

ORDERED that pending the hearing and determination of this application for a preliminary injunction, defendant, its servants, agents, employees, attorneys, and representatives, and all persons in active concert or participation with it, be and are temporarily enjoined and restrained from

AL (a) enjoining and restraining defendant Absecon Mills, Inc., its servants, agents, employees, attorneys, and representatives, and all persons in active concert or participation with it from:

(1) using the trade secrets of plaintiff that are the subject of the License Agreement, between plaintiff, as Licensor, and defendant, as Licensee, relating to the

AC
Technology (A) containing (i) more than two weft insertions, (ii) co-mingled thermo-setting, melt bond, or friction inducing fibers, or (iii) structural Z fibers or (B) designed by or with the assistance of plaintiff;

(2) disclosing the Technology to anyone; and

(3) interfering with plaintiff's use of the Technology; and

(b) directing defendant to allow plaintiff to purchase from defendant, for a purchase price equal to defendant's cost less tax depreciation, the Liba machine acquired by defendant to manufacture fabrics using the Technology as provided for in Section 12 of the License Agreement.

ORDERED, that plaintiff post as security a Bond in the amount of \$ _____ by _____, 1997; and it is further

ORDERED that personal service of a copy of this Order to Show Cause and Temporary Restraining Order, the summons and complaint herein, and Affidavits and Memorandum of Law above mentioned, on defendant's counsel, Jay Safer, Locke Lord LLP, 3 World Financial Center, 20th Floor, New York, NY 10281-2101, on or before March 5, 2012 at 4 p.m. shall be good and sufficient service; and it is further

ORDERED, that defendant serve any papers in opposition to this motion upon the attorneys for plaintiff at or before 4:00 p.m. on March 8, 2012.

Dated: New York, New York
March 5, 2012



U.S.D.J.